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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/005,485	11/08/2001	Gilbert A. Amine	043883.0006	7195

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BOOTH & WRIGHT LLP  
P O BOX 50010  
AUSTIN, TX 78763-0010

EXAMINER
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TRAN, QUOC DUC

ART UNIT	PAPER NUMBER
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2643

DATE MAILED: 08/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/005,485

**Applicant(s)**

AMINE, GILBERT A.

**Examiner**

Quoc D Tran

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 27 May 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-186 is/are pending in the application.
- 4a) Of the above claim(s) 1-49 and 179-185 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 186 is/are allowed.
- 6) ☒ Claim(s) 50-59, 61-108 and 113-126 is/are rejected.
- 7) ☒ Claim(s) 60, 109-112 and 127-178 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 May 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>2</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election of Group IV (claims 50-178 and 186) in the reply filed on May 27, 2004 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

### ***Claim Objections***

2. Claims 50 and 117 are objected to because of the following informalities: claims contain acronyms that must be spelled out at least once. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 61-100 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 61 recites the limitation "both result...said analysis of adherence" in lines 6-8.

There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an

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international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 50-59, 101-108 and 113-126 are rejected under 35 U.S.C. 102(e) as being anticipated by Hardy (6,370,120).

Consider claim 50, Hardy teaches a system for measuring quality of voice services on modern telephony networks, including VON, PSTN, and hybrid VON/PSTN networks, said system comprising an analyzer that measures quality of service of a signal transmitted over the telephony network (abstract; col. 3 lines 25-50; col. 4 lines 2-6).

Consider claim 51, Hardy teaches the system further comprising a connector adapted to make a connection to said test point in the telephony network (col. 9 lines 40-49).

Consider claim 52, Hardy teaches the system wherein said analyzer comprises a computer system (col. 10 lines 1-9).

Consider claim 53, Hardy teaches the system wherein said computer system is a personal computer system comprising hardware and software components (col. 10 lines 1-9).

Consider claim 54, Hardy teaches the system wherein said analyzer further comprises a configuration subsystem that configures said computer system to interface with said telephony network (col. 10 lines 17-64).

Consider claim 55, Hardy teaches the system wherein said analyzer further comprises a quality of service analysis subsystem that performs an analysis of said quality of service of said signal (col. 10 lines 1-16).

Consider claim 56, Hardy teaches the system wherein said analyzer further comprises a report generator that reports a result of said analysis of said quality of service of said signal (col. 10 lines 10-16).

Consider claim 57, Hardy teaches the system wherein said analyzer further comprises a communications protocol analysis subsystem that performs an analysis of adherence to said communication protocol (col. 10 lines 1-16).

Consider claim 58, Hardy teaches the system wherein said analyzer further comprises a report generator that reports a result of said analysis of adherence to said communication protocol (col. 10 lines 10-16).

Consider claim 59, Hardy teaches the system wherein said analyzer further comprises: a quality of service analysis subsystem that performs an analysis of said quality of service of said signal; and a communications protocol analysis subsystem that performs an analysis of adherence to said communication protocol (col. 10 lines 1-16).

Consider claim 101, Hardy teaches a system for analyzing adherence to a communication protocol, said system comprising: a connector adapted to make a connection to a test point in the telephony network; and an analyzer that analyzes adherence to a communication protocol at said test point (abstract; col. 3 lines 25-50; col. 4 lines 2-6; col. 9 lines 40-49), said analyzer comprising: a computer system (col. 10 lines 1-9); a configuration subsystem that configures said computer system to interface with said telephony network (col. 10 lines 17-64); a communications protocol analysis subsystem that performs an analysis of adherence to said communication protocol; and a report generator that reports a result of said communication protocol analysis (col. 10 lines 1-16).

Consider claim 102, Hardy teaches the system wherein said system is a personal computer system comprising hardware and software components (col. 10 lines 1-9).

Consider claim 103, Hardy teaches wherein said connector is a handset connector that couples to a telephone handset to make said connection (col. 9 lines 40-49). It should be noted that the handset or telephone base is interpreted as a receiver.

Consider claim 104, Hardy teaches wherein said connector is a base connector that couples to a telephone base to make said connection (col. 9 lines 40-49). It should be noted that the handset or telephone base is interpreted as a receiver.

Consider claim 105, Hardy teaches the system further comprising a recorder that records signals transmitted by the telephony network at said test point (col. 9 lines 50-52).

Consider claim 106, Hardy teaches the system further comprising a reproduction unit that reproduces the recorded signal through the telephony network at said test point to permit an analysis of adherence to said communication protocol (col. 10 lines 1-9).

Consider claim 107, Hardy teaches the system wherein said communication protocol analysis subsystem comprises a subsystem that tests an adherence to a communication protocol selected from an Internet protocol, a voice over Internet protocol, voice over frame relay, voice over asynchronous transfer mode, voice over digital subscriber line, and voice over cable (col. 4 lines 38-67).

Consider claim 108, Hardy teaches the system wherein said connector comprises a connector adapted to connect to a selected one of a telephone handset, a telephone base unit, a line card, an FXS port, and FXO port, an E&M port, a T1/E1/J1 digital trunk, an Ethernet port, audio in and out ports, or a router (col. 9 lines 40-49).

Consider claim 113, Hardy teaches the system further comprising a recording subsystem that records the analysis of the communication protocol (col. 10 lines 10-16).

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Consider claim 114, Hardy teaches the system further comprising a non-volatile memory that maintains a record of the analysis of the communication protocol (col. 10 lines 10-16).

Consider claim 115, Hardy teaches the system further comprising a reproduction subsystem that reproduces from a record the analysis of the communication protocol (col. 10 lines 17-26).

Consider claim 116, Hardy teaches the system wherein the computer system comprises a modeling subsystem that models mathematically the communication protocol used by a programmable telephone equipment, said modeling subsystem calculating an improvement in performance of said programmable telephone equipment in response to a change in a programmable characteristic of said telephone equipment (col. 11 lines 8-15).

Consider claim 117, Hardy teaches a system for measuring quality of voice services on modern telephony networks, including VON, PSTN, and hybrid VON/PSTN networks, and for analyzing adherence to a communication protocol, said system comprising an analyzer that measures quality of service of a signal transmitted over the telephony network and analyzes adherence to a communication protocol at a test point in the telephony network (abstract; col. 3 lines 25-50; col. 4 lines 2-6).

Consider claim 118, Hardy teaches the system further comprising a connector adapted to make a connection to said test point in the telephony network (col. 9 lines 40-49).

Consider claim 119, Hardy teaches the system wherein said analyzer comprises a computer system (col. 10 lines 1-9).

Consider claim 120, Hardy teaches the system wherein said system is a personal computer system comprising hardware and software components (col. 10 lines 1-9).

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Consider claim 121, Hardy teaches the system wherein said analyzer further comprises a configuration subsystem that configures said computer system to interface with said telephony network (col. 10 lines 17-64).

Consider claim 122, Hardy teaches the system wherein said analyzer further comprises a quality of service analysis subsystem that performs an analysis of said quality of service of said signal (col. 10 lines 1-16).

Consider claim 123, Hardy teaches the system wherein said analyzer further comprises a report generator that reports a result of said analysis of said quality of service of said signal (col. 10 lines 10-16).

Consider claim 124, Hardy teaches the system wherein said analyzer further comprises a communications protocol analysis subsystem that performs an analysis of adherence to said communication protocol (col. 10 lines 1-16).

Consider claim 125, Hardy teaches the system wherein said analyzer further comprises a report generator that reports a result of said analysis of adherence to said communication protocol (col. 10 lines 10-16).

Consider claim 126, Hardy teaches the system wherein said analyzer further comprises: a quality of service analysis subsystem that performs an analysis of said quality of service of said signal; and a communications protocol analysis subsystem that performs an analysis of adherence to said communication protocol (col. 10 lines 1-16).

***Allowable Subject Matter***

7. Claim 186 is allowed.



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8. Claims 60, 109-112 and 127-178 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

10. Any response to this action should be mailed to:

Commissioner of Patents and Trademarks  
Washington, D.C. 20231

Facsimile responses should be faxed to:  
**(703) 872-9306**

Hand-delivered responses should be brought to:  
Crystal Park II, 2121 Crystal Drive  
Arlington, VA., Sixth Floor (Receptionist)

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Quoc Tran** whose telephone number is **(703) 306-5643**. The examiner can normally be reached on Monday-Thursday from 8:00 to 6:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Curtis Kuntz**, can be reached on **(703) 305-4708**.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the **Technology Center 2600** whose telephone number is **(703) 306-0377**.

 **QUOCTRAN**  
**PRIMARY EXAMINER**

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August 6, 2004